

Michigan Bankers Association

Analysis and statement in support of House Bills 4450-4454 The Uniform Commercial Code and property having a certificate of title

Michigan has adopted the Uniform Commercial Code (UCC) that governs most transactions involving personal property. The UCC is divided into 9 major parts that are called articles. Article 9 of the UCC applies to transactions, including loans, which create a security interest (think “lien”) on personal property.

Under the UCC, to perfect liens on personal property that does not have a title, the creditor files a financing statement.

However, for items with a title, the process is different. Michigan also has four other statutes that allow a security interest to be placed on specific types of personal property (motor vehicles, watercraft, off-road vehicles, and mobile homes). This is usually done by placing a notice of the lien upon the certificate of title of that property.

Article 9 of the UCC was substantially amended by Public Act 145 of 2001. Most other states have adopted substantially the same amendments. However, Michigan’s enactment differed slightly from the uniform version because we didn’t have available at the time the four titling statutes to amend.

A clarification of revised Article 9, and the four certificate of title statutes mentioned above is needed to make it clear that the current practice in Michigan – of making a notation on the title of the property – is the only way of perfecting a security interest on property having a certificate of title.

HB 4450 (Robertson) – Motor Vehicles

Provides that notation on a certificate of title is the means to perfect a security interest and is equivalent to a UCC Article 9.

HB 4451 (Green) – Watercraft

Provides that notation on a certificate of title is the means to perfect a security interest and is equivalent to a UCC Article 9 filing.

HB 4452 (Hunter) – Mobile Homes

Makes it clear that notation on a certificate of title is the means to perfect a security interest and is equivalent to a UCC Article 9 filing.

HB 4453 (Dillon) – ORVs

Makes it clear that notation on a certificate of title is the means to perfect a security interest and is equivalent to a UCC Article 9 filing.

HB 4454 – UCC Article 9

Makes it clear that following the other statutes is the proper way to obtain a priority lien.